

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2430 - SB 2209**

March 3, 2016

**SUMMARY OF BILL:** Enacts the Cancer Patient Choice Act. Establishes requirements regarding the treatment of certain patients with cancer by requiring all physician-prescribed proton therapy for the treatment of breast or prostate cancer under a hypofractionated protocol as part of a clinical trial or registry to be covered by commercial insurance as an in-network service and by TennCare.

Establishes the required number of treatments for both breast and prostate cancer and a fixed amount payable for the proton treatment delivery for both the initial treatments and any additional treatments. Specifies that if the application of the fixed rates exceed the total cost of intensity modulated radiation therapy (IMRT) treatment for TennCare enrollees and the state sponsored health plans, the percentages will be adjusted for both programs so that the cost of a course of hypofractionated proton therapy treatment is equal to the programs weighted average cost for a standard course of IMRT treatment. Also allows for adjustments if a payer's cost exceeds the weighted average total cost for a standard course of IMRT treatment.

Benefits will be subject to the annual deductible and coinsurance established for all other similar benefits within the policy or contract of insurance; provided the annual deductible and coinsurance for the benefits cannot be greater than the annual deductible and coinsurance established for all other similar benefits within that policy or contract of insurance.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – Exceeds \$6,360,700**

**Increase Federal Expenditures – Exceeds \$493,900**

**Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111):** Such legislation will result in an increase in the cost of health insurance premiums for hypofractionated proton therapy treatment being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) on average depending on the type of plan.

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Assumptions:

- Based on information provided by the Bureau of TennCare, 3,418 TennCare enrollees were diagnosed with breast cancer and 555 enrollees were diagnosed with prostate cancer. The fiscal analysis is based on five percent of current enrollees being treated with physician prescribed proton therapy.
- The estimated increase in expenditures for a 20 treatment course of proton therapy above a 33 treatment course of IMRT for breast cancer with a 60.4 percent adjustment as required by the bill would range from \$3,620 - \$4,541 depending on the geographic region.
- The total increase in expenditures for enrollees diagnosed with breast cancer is estimated to be at least \$618,658  $[(3,418 \text{ enrollees} \times 0.05) \times \$3,620]$ .
- The estimated increase in expenditures for a 20 treatment course of proton therapy above a 40 treatment course of IMRT for prostate cancer with a 74 percent adjustment as required by the bill would range from \$4,549 - \$5,665 depending on the geographic region.
- The total increase in expenditures for enrollees diagnosed with prostate cancer is estimated to be at least \$126,235  $[(555 \text{ enrollees} \times 0.05) \times \$4,549]$ .
- These expenditures will receive federal matching funds of 64.983 percent; therefore the state expenditures will be 35.017 percent.
- The increase in state expenditures through TennCare is estimated to exceed \$260,839  $[(\$618,658 + \$126,235) \times 0.35017]$ .
- The increase in federal expenditures through TennCare is estimated to exceed \$484,054  $[(\$618,658 + \$126,235) \times 0.64983]$ .
- Based on information provided by the Division of Health Care Finance and Administration, the Cover Tennessee program had one member that diagnosed with breast cancer. The estimate is based on at least one Cover Tennessee enrollee receiving proton therapy.
- The total allowed claim for the Cover Tennessee member was \$8,519. The provisions of the bill require payment rate percentages to be adjusted so that the weighted average total cost for a standard course of IMRT treatment based on the payer's payment data is equal to the total cost of a course of hypofractionated proton therapy. Using the 33 treatments of IMRT, the standard course of treatment for the enrollee is estimated to cost \$18,519; therefore, the increase in expenditures to the Cover Tennessee program is estimated to be \$10,000  $(\$18,519 - \$8,519)$ .
- These expenditures will receive federal matching funds of 98.488 percent; therefore, the state expenditures will be 1.512 percent.
- The increase in state expenditures through Cover Tennessee is estimated to exceed \$151  $(\$10,000 \times 0.01512)$ .
- The increase in federal expenditures through Cover Tennessee is estimated to exceed \$9,849  $(\$10,000 \times 0.98488)$ .
- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration, approximately 5,111 enrollees of the state employee and local education health plans have a cancer diagnosis. Of these enrollees, the Division estimates 164 enrollees would receive proton therapy based on the current enrollees receiving external beam radiation therapy. The total increase in expenditures is

estimated to be \$1,599,707 which accounts the state contribution which is 80 percent of member premiums.

- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the bill. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Federal 45 C.F.R. §155.70 authorizes a state to require a qualified health plan (QHP) to offer benefits in addition to the essential health benefits. If the state-required benefits are in addition to the essential health benefits (EHB), then the state must make payments to defray the cost of the additional required benefits to an enrollee or directly to the QHP issuer on behalf of the enrollee.
- According to DCI, the bill imposes a health insurance benefit mandate that exceeds the benefits provided under the Tennessee EHB plan.
- Pursuant to the Patient Protection and Affordable Care Act (PPACA), states are required to defray the cost of benefit mandates enacted after December 31, 2011, that require coverage of benefits by qualified health plans that exceed benefits included in the state's EHB benchmark plan.
- According to DCI, a state may defray the cost of a mandate by reimbursing the health insurance carrier for the amount of premium attributed to the new benefit, or for the insurance carrier's actual costs. DCI assumes the state will reimburse the health insurance carriers for the amount of premium attributed to the new benefit.
- In a census released by the U.S. Department of Health and Human Services, 250,500 Tennesseans have obtained health coverage on the federally facilitated exchange as of January 2016. Due to the trend of enrollment numbers increasing during the end of the enrollment period it is estimated 25,000 additional Tennesseans will obtain coverage on the exchange. In addition, based on data currently provided by carriers, the DCI estimates that approximately 100,000 individuals have obtained a QHP off the exchange. Therefore, the total QHP population is 375,000 (250,500 + 25,000 + 100,000) for calendar year 2016.
- Based on cost data provided by health insurance carriers offering QHPs, DCI estimates that the average additional cost per enrollee over a six month period is \$6.00, resulting in an increase in expenditures of \$4,500,000 in FY16-17 [375,000 enrollees x (\$6 x 2 six-month period)].
- Current federal rules only apply through calendar years 2016 at which time the federal Department of Health and Human Services will reevaluate EHB determinations. For purposes of this analysis, the fiscal impact is only applied to calendar year 2017 under the assumption that current rules will remain consistent.
- The total increase in state expenditures is estimated to be at least \$6,360,697 (\$260,839 + \$151 + \$1,599,707 + \$4,500,000).
- The total increase in federal expenditures is estimated to be at least \$493,903 (\$484,054 + \$9,849).
- Private sector health insurance premium impact: The provisions of the bill will result in an increase in covered individuals receiving benefits for cancer. Health insurance premiums will increase to cover the costs of the additional benefits; the estimated cost to health insurance for hypofractionated proton therapy is estimated to increase each individual's total premium by less than one percent. Based on a 2011 report by the Fiscal Review Committee staff, a one percent increase in premium rates will range

between \$50 (single coverage) and \$140 (family coverage) on average depending on the type of plan.

## **IMPACT TO COMMERCE:**

**Increase Business Revenue – Exceeds \$6,854,600**

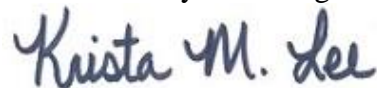
**Increase Business Expenditures – Less than \$6,854,600**

### **Assumptions:**

- Health care providers that provide hypofractionated proton therapy treatment will incur an increase in revenue to cover the cost of the increased coverage provided by insurance companies as a result of the proposed legislation.
- Insurance companies will realize an increase in premium revenue to cover the increased coverage.
- An exact impact to commerce cannot be determined due to a number of unknown factors but the increase revenue is reasonably estimated to exceed the amount of increased state and federal expenditures resulting from the proposed legislation.
- For companies to retain solvency, any increased expenditures will be less than the amount of revenue collected.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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